

**City of Fayetteville Staff Review Form**

**2014-0462**

**Legistar File ID**

**11/18/2014**

City Council Meeting Date - Agenda Item Only  
N/A for Non-Agenda Item

Connie Edmonston

10/22/2014

Parks & Recreation /  
Parks & Recreation Department

**Submitted By**

**Submitted Date**

**Division / Department**

**Action Recommendation:**

A resolution approving a lease agreement with the Area Agency on Aging of Northwest Arkansas for the Walker Park Senior Activity and Wellness Center building located at 945 South College Avenue.

**Budget Impact:**

Account Number	Fund
Project Number	Project Title
<b>Budgeted Item?</b> <u>NA</u>	Current Budget \$ -
<b>Does item have a cost?</b> <u>No</u>	Funds Obligated \$ -
<b>Budget Adjustment Attached?</b> <u>No</u>	Current Balance <span style="border: 1px solid black; padding: 2px;">\$ -</span>
	Item Cost
	Budget Adjustment
	Remaining Budget <span style="border: 1px solid black; padding: 2px;">\$ -</span>

V20140710

Previous Ordinance or Resolution # 246-08

Original Contract Number: \_\_\_\_\_

Approval Date: \_\_\_\_\_

Comments:

**MEETING OF NOVEMBER 18, 2014**

**TO:** Mayor and City Council  
**THRU:** Don Marr, Chief of Staff  
**FROM:** Connie Edmonston, Parks and Recreation Director  
**DATE:** October 22, 2014  
**SUBJECT: Walker Park Senior Activity and Wellness Center Building Lease**

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**RECOMMENDATION:**

A resolution approving a lease agreement with the Area Agency on Aging of Northwest Arkansas for the Walker Park Senior Activity and Wellness Center building located at 945 South College Avenue.

**BACKGROUND:**

The Walker Park Senior Activity and Wellness Center opened in July of 2003 and has been under the operations of the Area Agency on Aging of Northwest Arkansas. The center offers a wide range of daily activities and services such as nutrition, recreation, health and wellness programs and other services for senior adults. The center may be used for special events such as scheduled meetings of community groups, reunions, receptions, etc. and user fees are allowed to be charged for these events.

**DISCUSSION:**

The City's building lease for the Walker Park Senior Activity and Wellness Center with the Area Agency on Aging of Northwest Arkansas is up for renewal on December 31, 2014. The agency has abided by our previous agreement in providing quality programs for our senior citizens; therefore, staff recommends continuation of this partnership. City staff has worked with the agency to update the current lease agreement. Listed below are focal points and changes made in the new contract:

1. This lease agreement is for the 2015 calendar year and may be automatically renewed for seven years if mutually agreed on by both parties. The renewal period was changed from five to seven years, adding two additional years.
2. The lease sum is \$1.00 per year in exchange for the operations of the building as a senior adult center.
3. The Area on Agency is required to maintain public liability insurance, pay all utility bills and provide general maintenance of the facility and area surrounding the center.
4. The City is responsible for providing building insurance. The City will also be allowed to schedule and utilize the center to conduct public or staff meetings.

5. The center is designated as an emergency shelter. Staff of the Walker Park Senior Activity and Wellness Center will work with City staff to ensure the center is properly functioning as an emergency center.

**BUDGET/STAFF IMPACT:**

The City's Building Services Division is responsible for repairs to the roof, heating/air units and major repairs for electric/plumbing. The City's Parks and Recreation Department will provide snow removal on the parking lot. The City will be responsible for Capital Projects over \$10,000. In 2014, the City is expanding the parking lot at the center. The 5-Year CIP Plan includes Sales Tax Funding in 2015-2017 in the amount of \$275,000 to expand and renovate the kitchen in order to provide the senior adult nutrition program at the Walker and Hillcrest Towers Centers and Meals On Wheels program.

**Attachments:**

Building Lease Agreement

## LEASE

This Agreement, made and entered into the 7th day of October, 2014, by and between the City of Fayetteville and the Area Agency on Aging of Northwest Arkansas,

WITNESSETH:

1. Leased Premises. For and in consideration of the rents, covenants, and agreements herein entered into and agreed upon by the Area Agency on Aging of Northwest Arkansas as obligations to the City of Fayetteville, the City of Fayetteville lets, leases, and demises unto Area Agency on Aging of Northwest Arkansas, subject to the terms and conditions contained herein, the following described property situated in Fayetteville, Arkansas, located at 945 South College, Fayetteville, Arkansas. To have and to hold said premises unto the said Area Agency on Aging of Northwest Arkansas for and during the term herein stated, subject to the covenants, terms, conditions, and liens herein contained.

2. Term. This Lease shall commence on January 1, 2015 through December 31, 2015. The Lease may be automatically renewed for a term of seven (7) years thereafter if mutually agreed on by both parties.

3. Rent. Area Agency on Aging of Northwest Arkansas agrees to pay to City of Fayetteville as rental for the full term of this Lease the sum of \$1.00 per year, to be paid in advance on the first day of January of 2015 and on the first day of each and every year thereafter during the term of this Lease.

4. Signs. Area Agency on Aging of Northwest Arkansas agrees not to utilize any form of advertising that may be deemed objectionable to City of Fayetteville or to the general public, including, but not limited, to loudspeakers, phonograph or related electronic equipment, radios, or projected sound outside of the leased premises.

5. Repairs. Area Agency on Aging of Northwest Arkansas shall maintain the building structure, including exterior doors and windows, in a reasonable state of repair and shall make such repairs as may be required to keep and maintain the grounds in a good and tenable condition. Area Agency on Aging of Northwest Arkansas shall keep the interior of the building, including interior walls, floors, doors, wiring, plumbing, and window and door glass in good repair at their expense. The City of Fayetteville Building Service Division will be responsible for repairs to the roof, heating and air units, and major repairs for electric and plumbing. The City Parks and Recreation Department will provide snow removal on the parking lot

Area Agency on Aging of Northwest Arkansas shall, at the termination, surrender, or forfeiture of this Lease, return said premises with the interior, including all of the above items, in as good and satisfactory condition as the same was at the beginning of Lease, normal wear and tear excepted. Area Agency on Aging of Northwest Arkansas shall be permitted to make alterations, additions or improvements upon or to the leased premises, provided that any such alterations, additions or improvements will be and remain a part of the leased premises at the expiration of

this lease and thereupon become the property of the City of Fayetteville.

No construction or renovation will be undertaken without the expressed written approval and consent of City of Fayetteville. Capital items costing over \$10,000 for the Walker Park Senior Activity and Wellness Center building must be submitted to the City of Fayetteville Parks and Recreation Department by May 1 of each year in order to be considered for the following year by the City Council.

6. Use. Area Agency on Aging of Northwest Arkansas agrees to use the lease premises for the purpose of operating a Senior Activity and Wellness Center and for no other purpose or purposes without the written consent of City of Fayetteville having been obtained in advance. Area Agency on Aging of Northwest Arkansas shall not use, nor permit the demised premises to be used, for any purpose or purposes other than those expressed herein. Normal usage of the Walker Park Senior Activity and Wellness Center would consist of services such as nutrition, recreation, health and wellness programs, crafts, case management, and services for Senior Adults. Use of the premises for special events such as scheduled meetings of community groups, reunions, receptions, etc., will be considered a normal use of the Walker Park Senior Activity and Wellness Center and will not be considered a violation of this Paragraph or of Paragraph 7 below. Area Agency on Aging of Northwest Arkansas is allowed to charge a user fee for events and programs. The City of Fayetteville will be allowed to schedule and utilize the Walker Park Senior Activity and Wellness Center to conduct public meetings or staff meetings. Should the property cease to be utilized as a Senior Activity and Wellness Center, this Lease shall become null and void and all improvements on said property shall inure to City of Fayetteville pursuant to Paragraph 2 hereinabove.

The Walker Park Senior Activity and Wellness Center is designated as an emergency shelter by the City of Fayetteville. The City purchased and installed a large generator to make the building feasible as an emergency shelter and the generator shall only be used in the event of an emergency or power outage. The staff of the Walker Park Senior Activity and Wellness Center will work with the City of Fayetteville Staff to ensure the center is properly prepared to serve as an emergency shelter as required by the City.

7. Assignment. Area Agency on Aging of Northwest Arkansas shall not assign this Lease or sublet the leased premises without prior written consent of the City of Fayetteville. Any such assignment or subletting shall in no way relieve Area Agency on Aging of Northwest Arkansas from liability for the obligation imposed by this Lease. Area Agency on Aging of Northwest Arkansas may only be released from liability by a specific written release executed by City of Fayetteville. It is understood by the City of Fayetteville that the Area Agency on Aging of Northwest Arkansas may choose to subcontract with an Aging Services Provider to operate the senior programs in the center. This subcontract arrangement does not constitute assignment of the Lease for the purposes of this document.

8. Insurance. The City of Fayetteville hereby agrees to cause an insurance policy to be purchased protecting the premises from fire, windstorm, hail and extended coverage, vandalism, malicious mischief, and burglary insurance to cover damage to the building or the premises, said insurance is to be written by a responsible insurance company authorized to do

business within the State of Arkansas in an amount equal to not less than the replacement value of the premises and to furnish Area Agency on Aging of Northwest Arkansas with proof thereof. Such policy of insurance shall provide protection against loss so insured against for the benefit of City of Fayetteville and Area Agency on Aging of Northwest Arkansas as their interests may appear. If, during the term of this lease, the premises or the building and other improvements in which the premises are located are totally or partially destroyed from any cause, rendering the premises totally or partially inaccessible or unusable, City of Fayetteville may restore the premises or the building and other improvements in which the premises are located to substantially the same condition as they were in immediately before destruction. City of Fayetteville may provide an alternate location, subject to the approval of Area Agency on Aging of Northwest Arkansas, for the remainder of the term of the lease or until the Area Agency on Aging of Northwest Arkansas is able to return to the original location, at City of Fayetteville's option.

9. Insurance on Area Agency on Aging of Northwest Arkansas's Property. Area Agency on Aging of Northwest Arkansas shall be solely responsible for maintaining insurance on its property, including, but not limited to, movables, trade fixtures installed by Area Agency on Aging of Northwest Arkansas, furniture, furnishings, and inventory.

10. Liability Insurance. Area Agency on Aging of Northwest Arkansas shall, during the term of this Lease, maintain public liability insurance on the leased premises and on the business operated by the Area Agency on Aging of Northwest Arkansas or any sub-tenant occupying the leased premises. The limits of such public liability insurance shall not be less than \$300,000.00 per each occurrence for bodily injury liability, with a \$1,000,000.00 aggregate. Such policy shall contain a clause that the insurer will not cancel or change the insurance without giving City of Fayetteville, its successors or assigns, ten (10) days' prior written notice; and a certificate of such insurance shall be delivered to City of Fayetteville prior to the inception of this Lease.

11. Taxes. City of Fayetteville agrees to pay in full or cause to be paid in full all ad valorem property taxes levied and other taxes and assessments payable upon the leased premises. However, Area Agency on Aging of Northwest Arkansas agrees to pay all taxes levied against any furniture, fixtures or other personal property used in or on the premises by Area Agency on Aging of Northwest Arkansas on sub-leases of Area Agency on Aging of Northwest Arkansas.

12. Utility Bills. Area Agency on Aging of Northwest Arkansas agrees to pay all utility bills, including electricity, gas, water, sewer, telephone and trash pick up assessed against the premises throughout the term of this lease and any other expense incidental to the Area Agency on Aging of Northwest Arkansas's occupancy of the leased premises. The Area Agency on Aging of Northwest Arkansas may request funding from the City of Fayetteville for utility bills. Funding requests must be submitted to the City of Fayetteville Parks and Recreation Department by May 1 of each year in order to be considered for the following year by the City Council.

13. Compliance with Laws. Area Agency on Aging of Northwest Arkansas agrees not to violate any law, ordinance, rule or regulation of any governmental authority having

jurisdiction of the leased premises.

14. Trash. All trash and refuse deposited outside the building must be placed in sufficient receptacles furnished by Area Agency on Aging of Northwest Arkansas and approved by the City of Fayetteville Trash and Recycling Division.

15. General Maintenance. Area Agency on Aging of Northwest Arkansas agrees to provide general daily maintenance and upkeep of facility, i.e., cleaning of floors, kitchen area, offices, restrooms, dining area, craft room and windows in compliance with the Arkansas Health Department.

16. Title and Quiet Enjoyment: City of Fayetteville covenants and warrants that it is the owner in fee simple absolute of the leased premises and may lease said premises as herein provided. Upon payment by Area Agency on Aging of Northwest Arkansas of the rents herein provided and upon the observance and performance of all the covenants, terms, and conditions upon Area Agency on Aging of Northwest Arkansas's part to be observed and performed, Area Agency on Aging of Northwest Arkansas shall peaceably and quietly hold and enjoy the demised premises for the term hereby demised without hindrance or interruption by City of Fayetteville, subject to the terms and conditions of this Lease.

17. Succession. This Lease Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, successors and assigns.

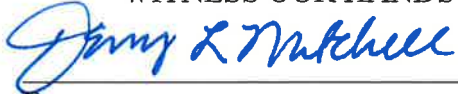
18. Waste. Area Agency on Aging of Northwest Arkansas agrees not to commit waste, nor permit waste to result or to be done to or upon the aforesaid property and premises; not to conduct any business thereon or therein, nor store or permit to be stored thereon or therein any explosives, combustible substances or materials of any nature, which would increase the fire hazard or cause a premium to be charged for insurance higher than that charged for the present use of said property; and not to operate, nor permit to be operated, nor to exist hereon or therein, any public or private nuisance.

19. Severability. Each paragraph of this Lease Agreement is severable from all other paragraphs. In the event any court of competent jurisdiction determines that any paragraph or subparagraph is invalid or unenforceable for any reason, all remaining paragraphs and subparagraphs shall remain in full force and effect.

20. Interpretation. This Lease Agreement shall be interpreted according to and enforced under the laws of the State of Arkansas.

21. Entire Agreement. This Lease Agreement contains the entire agreement of both parties hereto, and no other oral or written agreement shall be binding on the parties hereto. This Lease Agreement supersedes all prior agreements, contracts, and understandings of any kind between the parties relating to the subject matter hereof. This Agreement may be executed in all or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

WITNESS OUR HANDS this 7th day of October, 2014.



By:  
Executive Director,  
Area Agency on Aging of NW Arkansas

\_\_\_\_\_  
By:  
Mayor  
City of Fayetteville, Arkansas

\_\_\_\_\_  
By: Sondra E. Smith  
City Clerk/Treasurer  
City of Fayetteville, Arkansas



ACKNOWLEDGMENT

STATE OF ARKANSAS)

SS:

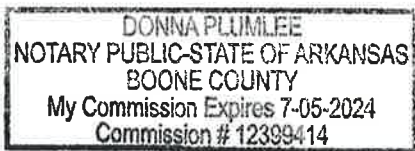
COUNTY OF WASHINGTON)

On this day, personally appeared before me Jerry L. Mitchell for the Walker Park Senior Activity and Wellness Center, known to me to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purposes therein contained.

WITNESS my hand and official seal this 7<sup>th</sup> day of October, 2014.

My commission expires: 7-5-2024

Donna Plumlee  
Notary Public



ACKNOWLEDGMENT

STATE OF ARKANSAS)

) SS:

COUNTY OF \_\_\_\_\_)

On this day, personally appeared before me \_\_\_\_\_ Mayor, City of Fayetteville, Arkansas, known to me to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

WITNESS my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My commission expires:

\_\_\_\_\_  
Notary Public